

EX PARTE OR LATE FILED

March 30, 2012

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

FILED/ACCEPTED

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Federal Communications Commission
Office of the Secretary

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Re: Notice of *Ex Parte* Communication, WC Docket No. 10-90

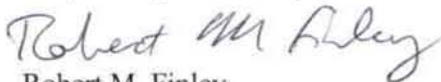
Dear Ms. Dortch:

On March 28, 2012, Alfred La Paz, Secretary and Tribal Council Member of the Mescalero Apache Tribe, Nelva Cervantes, General Counsel of the Mescalero Apache Tribe, Godfrey Enjady, General Manager of Mescalero Apache Telecom, Inc. (MATI), Jerome Block of MATI, Alan Morel, counsel to MATI, Debbie Ho, John Harte, and Gordon Kenny of Mapetsi Policy Group, Derril B. Jordan of Jordan Law Offices, and Rob Strait of Alexicon, Inc. met with Irene Flannery and Robert Finley of the Office of Native Affairs and Policy, and Patrick Halley, Amy Bender, and Joseph Cavender of the Wireline Competition Bureau. The purpose of the meeting was to discuss MATI's views, and those of the Mescalero Apache Tribe, on the telecommunications needs of the Tribe in response to the Commission's Connect America Fund/Intercarrier Compensation Report and Order and Further Notice of Proposed Rulemaking in the above referenced docket (*CAF/ICC Transformation Order*).

The group emphasized the importance of the trust relationship between the federal government and federally recognized Tribes and the need for the Commission to consider this essential trust relationship as it enacts policies impacting Tribally-owned telecommunications carriers. The group discussed the needs of rural, rate-of-return companies in general and Tribally-owned telecommunications companies in particular with respect to the Commission's *CAF/ICC Transformation Order* and the Further Notice. The parties representing MATI and the Tribe stated that the Order does not sufficiently incentivize broadband deployment on Tribal lands. The parties also stated that the process by which MATI could seek a waiver is burdensome and expensive and requested further guidance on the waiver process for Tribally-owned carriers.

The parties also expressed concerns about the use of regression analysis to limit reimbursable capital and operating expenses for the purposes of determining High-Cost Loop Support (HCLS) for rate-of-return carriers and the potential application of that analysis to Interstate Common Line Support (ICLS). Representatives from MATI suggested that the regression methodology proposed in Appendix H of the Further Notice could be improved by including the following inputs: climate; soil-type; terrain; density; percentage of Lifeline customers; and high levels of unemployment on the Reservation. The parties also advocated for setting a cap of 95 percent for the HCLS benchmarks, rather than 90 percent as proposed, not extending caps on capital and operating costs to ICLS, and not making any changes to the existing 11.25 percent rate of return.

Respectfully submitted,



Robert M. Finley

Legal Advisor, Office of Native Affairs and Policy, Consumer and Governmental Affairs Bureau

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